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play for a Miss Hatfield of Oregon. She can tell the speed of an auto by its tire marks on the pavement. The Supreme Court of Oregon ungallantly refuses to accept her testimony in *Everart v. Fishcer*, 147 Pacific Reporter, 189. The court says: "Another assignment of error rests upon allowing a young lady witness named Lottie Hatfield to give her opinion about the speed of the automobile. She did not see the vehicle in motion nor appear upon the scene until some time after the accident had happened. She testified, in substance, that behind it, and in the direction from which the automobile came, she observed two black streaks upon the pavement; and, having said in answer to a question, 'Well, I know pretty well about the speed,' she was asked if she would be able to approximate the speed of the car from the marks it left in stopping. She answered affirmatively, and proceeded to say, 'I should judge from that about 30 miles an hour, by the depth of the burns.' It is insisted that it was error to allow her to give her expert opinion upon the speed of the automobile from the data presented. Conceding that it was a matter calling for opinion evidence, the conditions were not adequate grounds upon which any expert could form an estimate. The mere marks upon the pavement did not constitute a sufficient basis for that kind of testimony. The ultimate object of the inquiry on that point was the speed of the vehicle. It is reasonable that, if a very heavily loaded car with wheels rough locked were propelled along a pavement at a very slow rate of speed, marks would be left behind. Again, the condition of the tires and of the street as to being rough or even would influence the question. Naturally a very smooth tire upon a very smooth surface, which, in turn, might be affected by a condition of dampness or frost, would result in but a faint marking. A variance in smoothness of either the tire or the pavement would produce different results. There was no testimony about any such conditions, or at least none of them were suggested to or mentioned by the witness. Consequently the foundation for expert testimony did not exist."

Officers Exceeding Speed Limit.—A police officer by virtue of his office in enforcing the law may perform acts which done by others constitute crimes. But even the policeman's authority is limited. His right of redress for injuries sustained while pursuing violators of the law has frequently been questioned. Plaintiff in *Keevil v. Ponsford et al.*, 173 Southwestern Reporter, 518, is a police officer. In attempting to capture speed violators, he ran his motorcycle at 50 to 60 miles per hour, and sustained injuries by colliding with a pile of building material negligently left unlighted. The court directed a verdict for defendant. The Court of Civil Appeals held: "It cannot be denied that it was negligence of the grossest character to obstruct the street in the manner indicated without complying with the ordinance relative to placing lights thereon. On the

other hand, Keevil, too, was traveling at a rate of speed prohibited by law, and in so doing was guilty of negligence per se. Peace officers are not excepted from the operation of the laws limiting the speed of vehicles upon public highways. Certainly, an exception should be made in favor of those whose special duty it is to detect and arrest parties running in excess of legal limit, while discharging such duty. The courts, however, cannot ingraft this exception. It must be done by the legislative body. But plaintiff's negligence in this respect would not preclude recovery, unless it concurred with the negligence of defendants, and proximately contributed to the injury. Whether an act be negligence per se, because violative of a duty imposed by statute or ordinance, or be negligence because in violation of some duty under general principles of law, the same rules must be applied in determining the question of proximate cause. Was the court below warranted in assuming as a matter of law that plaintiff's negligence was a proximately contributing cause? Undoubtedly the evidence strongly tends to establish this fact, but we are not prepared to say no other conclusion could be reached by reasonable minds. The evidence might be so unsatisfactory upon this issue that the court would have been warranted in setting aside a verdict in plaintiff's favor, and yet not of that character which would authorize an adverse peremptory instruction. We are of opinion there is room for a difference of conclusion by reasonable minds upon the issue, and that the peremptory instruction was improperly given."

Electrocution of Murderers.—The act of the South Carolina legislature changing the death penalty from hanging to electrocution, and providing for an increased number of witnesses, is constitutional according to the opinion in *Joe Malloy v. State of South Carolina*, 35 Supreme Court Reporter, 507: "The constitutional inhibition of ex post facto laws was intended to secure substantial personal rights against arbitrary and oppressive legislative action, and not to obstruct mere alteration in conditions deemed necessary for the orderly infliction of humane punishment. The contention in behalf of plaintiff in error most earnestly relied on is this: Any statute enacted subsequent to the commission of a crime which undertakes to change the punishment therefor is ex post facto and unconstitutional unless it distinctly modifies the severity of the former penalty. The courts cannot and will not undertake to say whether or not a change from hanging to electrocution is an increase or mitigation of punishment, and therefore the act of 1912 cannot apply in the circumstances presented here." "The statute under consideration did not change the penalty—death—for murder, but only the mode of producing this, together with certain nonessential details in respect of surroundings. The punishment was not increased, and some of the odious features incident to the old method were abated."